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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,094	10/27/1998	AKIHIKO YAMASHITA	P-7355-8002	1236

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EXAMINER

SAJOUS, WESNER

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/147,094

Applicant(s)

YAMASHITA ET AL.

Examiner

Sajous Wesner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 13 is/are allowed.
- 6) ☒ Claim(s) 1,5,6,8,9,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 41.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Remark

This communication is responsive to the amendments, response and the request for a continued examination (RCE) filed on 11/22/2004. Claims 1, 3, 5-9, 11-13 are presented for examination.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/22/2004 has been entered.

Response to Arguments

2. The Applicant, at pages 10 and 11 of the response, argues that the Knowles reference does use "one of the ordinate and the abscissa as a channel number axis and another as a time axis" nor does Knowles teaches consecutive time periods.

The Examiner, in response, respectfully disagrees. Fig. 3 in Knowles clearly depicts ordinate and abscissa to represent channel number axis and time axis, wherein the x-axis characterizes the channel number axis and the y-axis characterizes the time axis. It is further noted that the use of "one of the ordinate and the abscissa as a

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channel number axis and another as a time axis" is a very well known concept in the field of interactive or electronic program guide. Consequently, such may not be relied upon as reason for patentability.

As per the consecutive time periods, it is noted that since the claims fail to specifically suggest that the consecutive time periods that include purchased programs are time periods that are within a 24-hour day schedule, it is the Examiner's broad interpretation that the scheduled purchase programs depicting a 2:30 hr. time period on Wednesday for a purchased program and follow to a 2:00 hr time frame on Thursday in fig. 31 in Knowles correspond to the consecutive time periods, as claimed. For, no other programs are purchased between the 10:00 PM time clock on Wednesday until the 12:00 PM on Thursday. Thus, the 2:30 hr starting at 10:00 PM on Wednesday to the 2:00 hr time frame starting at 12:00 PM on Thursday represent the consecutive time periods. Thus, the Applicant's arguments are not deemed persuasive. Hence, the rejections are maintained.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 5-6, 8-9, 11-12 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Knowles et al. (US 2003/0079227), filed on July 29, 1998.

Considering claim 1, Knowles discloses a program guide display system apparatus comprises means (e.g., item 21 of fig. 1C) for displaying a plurality of program guides on a display unit in a matrix form by using one of the ordinate and the abscissa as a channel number axis and another one as a time axis (see fig. 3); means (see fig. 31) for determining whether any of a plurality of consecutive time periods includes a purchased one of a plurality of purchasable programs (e.g., notifying a user of an already schedule PPV program, see paragraph 89); and means for distinguishing on the display unit between the time periods which include a purchased one of the plurality of purchasable programs (e.g., PPV schedule times) and the time periods which do not include any purchased one of the plurality of purchasable programs (e.g., display a plurality of PPV scheduled times and/or future purchases, see paragraph 70). See paragraphs 70, 88 and 89, and paragraph 207.

It is noted that although Knowles is not specific about distinguishing on the display unit of a plurality of time periods that do not include the non-purchasable programs. Knowles, however, suggests, at paragraph 70, that a plurality of PPV scheduled times and/or future purchases are displayed on a user TV, and depicts at fig. 31 the selection of a purchase program (e.g., "whag the dog") that starts at 12:00 pm. This recitation is noted to imply that a plurality of future purchases program times and a plurality of PPV scheduled times can be provided to the user of Knowles; wherein the

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program purchase time of 12:00 pm (see fig. 31) is distinguishable over any non-purchased program times on that display, which may include the plurality of future purchases program times and a plurality of PPV scheduled times. By this, it obvious and/or would have been found obvious by those of artisan skilled in the art that the Knowles reference can or would have implemented the distinguishing on the display unit between a plurality of time periods that do not include the non-purchasable programs and the purchased program times. The purpose would be to prevent a user from unknowingly allowing purchasing the same program twice. See paragraph 88.

The invention of claim 5 contains features that are analogous to the limitations recited in claim 1. This being the case, claim 5 is rejected under the same rationale as claim 1.

Re claim 6, Knowles discloses a program guide display system apparatus for displaying a plurality of program guides on a display unit in a matrix form by using one of the ordinate and the abscissa as a channel number axis and another one as a time axis (see fig. 3) comprises selecting means (e.g., using a remote controller) for allowing at least one time period to be selected by a user, wherein at least one of a plurality of programs is associated with the at least one time period (as depicted by fig. 31, wherein the time (e.g., 12:00- 2:00 pm duration time) at which the selected program (e.g., "whag the dog") starts and ends corresponds with the time period selected by a user); and means for distinguishing on the display unit between the at least one time period selected by the user and time periods not selected by the user (e.g., display a plurality

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of PPV scheduled times and/or future purchases, see paragraph 70). See paragraphs 70, 88 and 89.

It is noted that although Knowles is not specific about distinguishing on the display unit between the at least one time period selected by the user and time periods not selected by the user. Knowles, however, suggests, at paragraph 70, that a plurality of PPV scheduled times and/or future purchases are displayed on a user TV, and depicts at fig. 31 the selection of a purchase program (e.g., "whag the dog") that starts at 12:00 pm with a 2 hour duration time. This recitation is noted to imply that a plurality of future purchases program times and a plurality of PPV scheduled times can be provided to the user of Knowles, wherein the program purchase time of 12:00 pm selected by the user using a cursor highlight (see fig. 31) is distinguishable over any other program times on that display, which may include the plurality of future purchases program times and a plurality of PPV scheduled times that can be selected by a user (see figs. 9-10 for the user selection). See also fig. 12, which depicts the selection of a 9:30 program time among a plurality of time periods. By this, it obvious and/or would have been found obvious by those of artisan skilled in the art that the Knowles reference can or would have implemented the distinguishing on the display unit between at least one time period selected by the user and time periods not selected by the user. The purpose would be to prevent a user from unknowingly allowing purchasing the same program twice. See paragraph 88.

Re claims 8 and 9, Knowles discloses setting means (via, e.g., a remote controller) that allows the starting time and the ending time of the at least one time

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period to be set by the user and allows the starting time and the end time of the at least one time period to be set for each day of the week to be set by a user (as depicted by fig. 31). See paragraphs 186 and 196.

Claim 11 contains features that are analogous to the limitations recited in claim 1. This being the case, claim 11 is rejected under the same rationale as claim 1.

Claim 12 contains features that are analogous to the limitations recited in claim 6. This being the case, claim 12 is rejected under the same rationale as claim 6.

Allowable Subject Matter

5. Claims 3 and 13 are allowed because the prior art of record fail to teach program guide controlling apparatus comprises means for distinguishing on the display unit between the time periods which include a purchased one of the plurality of purchasable programs and the time periods which do not include any purchased one of the plurality of purchasable programs, wherein the means for distinguishing comprises at least one first color associated with the time periods which include a purchased one of the plurality of purchasable programs and at least one second color which is different than the at least one first color and is associated with the period of times which do not include any purchased one of the plurality of purchasable programs (as in re claim 3); and means for distinguishing on the display unit between at least one time periods selected by a user and time periods not selected by the user, wherein the means for distinguishing comprises at least one first color associated with the at least one time periods selected by the user, and at least one second color which is different than the at

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least one first color and is associated with time periods not selected by the user (as in re claim 13).

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art fail to teach the limitations as recited in claim 13 above.

Conclusion

Any response to this action should be mailed to:

Box

Commissioner of Patents and Trademarks
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or faxed to:

(703) 308-9051, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

(703) 308-5359 for informal or draft communications, please label "PROPOSED"

or DRAFT")

Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA , 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesner Sajous whose telephone number is (703) 308-

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5857. The examiner can also be reached on Mondays thru Thursdays and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Matthew Bella, can be reached at (703) 308-6829. The fax phone number for this group is (703) 308-6606.

Wesner Sajous -WS-

January 12, 2006



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